

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 190

Introduced by Senator Beall
(Coauthor: Assembly Member Waldron)

February 10, 2015

An act to add Section 1367.81 to the Health and Safety Code, and to add Section 10123.65 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 190, as amended, Beall. Health care coverage: acquired brain injury.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for specified benefits.

This bill would require health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2016, to include coverage for post-acute residential transitional rehabilitation services made necessary as a result of and related to an acquired brain injury. The bill would prohibit the plan contract or policy from including any acquired brain injury post-acute care treatment covered under the plan contract or policy in any lifetime limitation on the number of days of covered acute care treatment, and would require the plan contract or policy to provide the post-acute residential transitional rehabilitation services under the same terms and

conditions, including, but not limited to, deductibles and copayments, as are applicable to similar coverage provided under the plan contract or policy. The bill would also prohibit a health care service plan or health insurer that contracts with or approves admission to a service provider pursuant to these requirements from refusing to contract with or approve admission to that facility to provide services that meet specified criteria solely because a facility is licensed by this state as an adult residential facility. Because a willful violation of the bill's provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.81 is added to the Health and Safety
- 2 Code, to read:
- 3 1367.81. (a) A health care service plan contract issued,
- 4 amended, renewed, or delivered on or after January 1, 2016, shall
- 5 include coverage for post-acute residential transitional
- 6 rehabilitation services made necessary as a result of and related to
- 7 an acquired brain injury.
- 8 (1) The health care service plan contract shall not include any
- 9 acquired brain injury post-acute care treatment covered under the
- 10 plan contract in any lifetime limitation on the number of days of
- 11 covered acute care treatment. Any limitation imposed under the
- 12 plan contract on days of acquired brain injury post-acute care
- 13 treatment shall be separately stated in the plan contract.
- 14 (2) (A) The health care service plan contract shall provide the
- 15 services described in this section under the same terms and
- 16 conditions as are applicable to similar coverage provided under
- 17 the plan contract.
- 18 (B) Those terms and conditions include, but are not limited to,
- 19 all of the following:
- 20 (i) Deductibles.

1 (ii) Copayments.

2 (iii) Coinsurance.

3 (iv) Annual or lifetime maximum payment limits.

4 (b) A health care service plan that contracts with or approves
5 admission to a service provider under this section shall not, solely
6 because a facility is licensed by this state as an adult residential
7 facility, refuse to contract with or approve admission to that facility
8 to provide services that are all of the following:

9 (1) Required by this section.

10 (2) Within the scope of its license as an adult residential facility.

11 (3) Within the scope of the services of an adult residential
12 facility or post-acute residential *transitional* rehabilitation facility
13 that has a specialty in brain injury rehabilitation, which may include
14 accreditation by the Commission on Accreditation of Rehabilitation
15 Facilities or other state licensed or nationally recognized or
16 accredited rehabilitation program for brain injury.

17 (c) (1) As used in this section, “*post-acute residential*
18 *transitional rehabilitation*” means *physician-prescribed*
19 *rehabilitation indicated for individuals specified in paragraph (4)*
20 *that utilizes an interdisciplinary, coordinated team approach in a*
21 *residential facility and provides direct medical and goal-oriented*
22 *treatment for a complex range of medical, physical, communicative,*
23 *cognitive, neurobehavioral, and psychological conditions arising*
24 *from, or associated with, an acquired brain injury.*

25 (2) As used in this subdivision, “*interdisciplinary, coordinated*
26 *team approach*” means *a treatment approach that includes physical*
27 *therapy, occupational therapy, speech therapy, rehabilitation*
28 *nursing, respiratory therapy, neuropsychology and psychology*
29 *services, prosthetic and orthotic services, or a combination thereof.*

30 (3) As used in this subdivision, “*goal-oriented treatment*” means
31 *treatment that has the goal of minimizing or eliminating medical*
32 *complications, reducing disability, and returning the person to*
33 *self-sufficiency or maximal possible functional independence.*

34 (4) *Post-acute residential transitional rehabilitation may be*
35 *indicated for individuals who can be treated more effectively in a*
36 *residential setting or may not have access to appropriate or*
37 *adequate hospital rehabilitation or subacute rehabilitation in a*
38 *long-term acute care hospital or skilled nursing facility and who*
39 *have any combination of the following conditions and factors*
40 *arising from, or associated with, an acquired brain injury:*

1 (A) *Have continuing medical complexity.*

2 (B) *Have significant functional deficits.*

3 (C) *Are deemed unsafe to be discharged to his or her personal*
4 *residence.*

5 (D) *Require continued neurobehavioral treatment.*

6 (E) *Have a deteriorated medical, physical, communicative,*
7 *cognitive, neurobehavioral, or psychological status.*

8 ~~(e)~~

9 ~~(d) This section shall does not apply to accident-only, any of~~
10 ~~the following:~~

11 ~~(1) A specialized health care service plan that does not cover~~
12 ~~treatment for brain injury.~~

13 ~~(2) Accident-only, specified disease, hospital indemnity,~~
14 ~~Medicare supplement, dental-only, or vision-only health care~~
15 ~~service plan contracts.~~

16 ~~(3) A health care service plan issued, sold, renewed, or offered~~
17 ~~for health care services or coverage provided in the Medi-Cal~~
18 ~~program (Chapter 7 (commencing with Section 14000) of Part 3~~
19 ~~of Division 9 of the Welfare and Institutions Code).~~

20 SEC. 2. Section 10123.65 is added to the Insurance Code, to
21 read:

22 10123.65. (a) A health insurance policy issued, amended,
23 renewed, or delivered on or after January 1, 2016, shall include
24 coverage for post-acute residential transitional rehabilitation
25 services made necessary as a result of and related to an acquired
26 brain injury.

27 (1) The health insurance policy shall not include any acquired
28 brain injury post-acute care treatment covered under the policy in
29 any lifetime limitation on the number of days of covered acute
30 care treatment. Any limitation imposed under the policy on days
31 of acquired brain injury post-acute care treatment shall be
32 separately stated in the policy.

33 (2) (A) The health insurance policy shall provide the services
34 described in this section under the same terms and conditions as
35 are applicable to similar coverage provided under the policy.

36 (B) Those terms and conditions include, but are not limited to,
37 all of the following:

38 (i) Deductibles.

39 (ii) Copayments.

40 (iii) Coinsurance.

1 (iv) Annual or lifetime maximum payment limits.

2 (b) An insurer that contracts with or approves admission to a
3 service provider under this section shall not, solely because a
4 facility is licensed by this state as an adult residential facility,
5 refuse to contract with or approve admission to that facility to
6 provide services that are all of the following:

7 (1) Required by this section.

8 (2) Within the scope of its license as an adult residential facility.

9 (3) Within the scope of the services of an adult residential
10 facility or post-acute residential *transitional* rehabilitation facility
11 that has a specialty in brain injury rehabilitation, which may include
12 accreditation by the Commission on Accreditation of Rehabilitation
13 Facilities or other state licensed or nationally recognized or
14 accredited rehabilitation program for brain injury.

15 (c) (1) *As used in this section, “post-acute residential*
16 *transitional rehabilitation” means physician-prescribed*
17 *rehabilitation indicated for individuals specified in paragraph (4)*
18 *that utilizes an interdisciplinary, coordinated team approach in a*
19 *residential facility and provides direct medical and goal-oriented*
20 *treatment for a complex range of medical, physical, communicative,*
21 *cognitive, neurobehavioral, and psychological conditions arising*
22 *from, or associated with, an acquired brain injury.*

23 (2) *As used in this subdivision, “interdisciplinary, coordinated*
24 *team approach” means a treatment approach that includes physical*
25 *therapy, occupational therapy, speech therapy, rehabilitation*
26 *nursing, respiratory therapy, neuropsychology and psychology*
27 *services, prosthetic and orthotic services, or a combination thereof.*

28 (3) *As used in this subdivision, “goal-oriented treatment” means*
29 *treatment that has the goal of minimizing or eliminating medical*
30 *complications, reducing disability, and returning the person to*
31 *self-sufficiency or maximal possible functional independence.*

32 (4) *Post-acute residential transitional rehabilitation may be*
33 *indicated for individuals who can be treated more effectively in a*
34 *residential setting or may not have access to appropriate or*
35 *adequate hospital rehabilitation or subacute rehabilitation in a*
36 *long-term acute care hospital or skilled nursing facility and who*
37 *have any combination of the following conditions and factors*
38 *arising from, or associated with, an acquired brain injury:*

39 (A) *Have continuing medical complexity.*

40 (B) *Have significant functional deficits.*

1 (C) *Are deemed unsafe to be discharged to his or her personal*
2 *residence.*

3 (D) *Require continued neurobehavioral treatment.*

4 (E) *Have a deteriorated medical, physical, communicative,*
5 *cognitive, neurobehavioral, or psychological status.*

6 ~~(e)~~

7 (d) *This section shall does not apply to accident-only, any of*
8 *the following:*

9 (1) *Specialized health insurance policies that do not cover*
10 *treatment for brain injury.*

11 (2) *Accident-only, specified disease, hospital indemnity,*
12 *Medicare supplement, dental-only, or vision-only health insurance*
13 *policies.*

14 (3) *A health insurance policy issued, sold, renewed, or offered*
15 *for health care services or coverage provided in the Medi-Cal*
16 *program (Chapter 7 (commencing with Section 14000) of Part 3*
17 *of Division 9 of the Welfare and Institutions Code).*

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.